

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	Esa Harna	CONF. NO.:	7550
SERIAL NO.:	09/881,452	ART UNIT:	2686
FILING DATE:	6/14/2001	EXAMINER:	Khawar Iqbal
TITLE:	METHOD AND ARRANGEMENT FOR DISTRIBUTING, EXECUTING AND CONSUMING RECREATIONAL APPLICATIONS IN AND BETWEEN MOBILE TELECOMMUNICATION DEVICES		
ATTORNEY DOCKET NO.:	297-010397-US (PAR)		

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**INTRODUCTION**

Applicant requests review of the final rejection in the above-identified application. This request is being filed with a Notice of Appeal.

**REMARKS**

A. The Examiner has failed to establish that the reference Hawkins. U.S. Patent No. 6,009,458 expressly or inherently describes all of the elements of claims 1-44 of this application. In particular the elements of independent claims 1, and 36-44 of this application. It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

Claim 1 as amended states:

**“transmitting from a first terminal of said group of terminals to a second terminal of said group of terminals, a proposal for setting up a session of utilising a recreational application and only after the second terminal has received said proposal, using the communicational capabilities of at least one of the first and second terminals to establish a state where both the first terminal and the second terminal possess executable software components of said recreational application for setting up a common, shared session and for executing said recreational application on said first and second terminals.”**

Equivalent language is contained in Independent claims 36-44. The cited reference Hawkins fails to disclose these elements.

The central idea of Hawkins is to digitally create generic playing objects with some basic characteristics, and use mapping programs to derive the actual playing objects needed for a certain game.

The disclosure of Hawkins fails to disclose the claimed feature according to which the enabled state of playing will only be established after the both terminals know they are going to play each other. According to Hawkins, the “chat room” is only for players that already have all required capabilities for playing the game. Nothing in Hawkins would suggest that only after the user has found a suitable and willing adversary, there would result an exchange of executable software or enablement tokens. The games of Hawkins originate in a chat room type internet site in which users desiring to play a game congregate. (see column 18, lines 59-62 of Hawkins)

There is nothing in Hawkins that indicates a mobile telephone user may call another mobile telephone for the purpose of setting up a game session. Wireless communications are not mentioned in Hawkins. This is discussed in column 18, lines 63-67 of Hawkins as follows:

**“While a group of users are playing a game, the public game flow control traffic**

**from the game facility to the clients may be directed through the user interface facility 402 via a communications channel which is similar to an Internet Relay Chat (IRC) channel.”**

The above disclosure is included in the excerpt cited by the Examiner, but the deficiencies are ignored.

The Examiner also cites col. 20, lines 18-28 to show how client software would be downloaded to a user's terminal. The Examiner neglects the fact that this passage describes, what happens immediately when a new user registers in the game facility before entering the chat room and before there is any chance for selecting opponents. Clearly the application is run on some site on an internet server and requires a game server, see column 19, lines 9-14.

All of the above deficiencies stem from the fact that the games of Hawkins' are not executed on terminals of a wireless radio system, but ordinary networked computers. Nothing in the reference Hawkins suggests that anything other than general purpose computers would be used for playing.

The cited reference Hawkins fails to support the rejection based on anticipation because it does not involve communications transmitted by a wireless terminal in a wireless network, the games in Hawkin are not initiated by direct communication between first and second wireless terminals. Also, there is no suggestion that the games are played using software executed by a wireless terminal.

The Examiner indicates that no patentable weight has been given to the claim elements relating to a mobile telephone because such elements are in the preamble. The claims of this application clearly incorporate and rely on the elements of the preamble, namely mobile terminals in a wireless network system. The transmission of a proposal is made on a first terminal of the group of terminals and the game application is distributed based on communication between the first and second terminals of the network. The

wireless terminal network is interwoven throughout the claims. This is a viable limitation and should be given patentable weight.

B. The Examiner has failed to establish that the reference Perlman. U.S. Patent No. 6,134,590 expressly or inherently describes all of the elements of claims 1-44 of this application. In particular the reference Perlman fails to disclose the elements of independent claims 1, and 36-44 of this application.

The system described in Perlman is simply described, in column 4, lines 43-47, as follows:

**"The present invention includes an apparatus and method for establishing a multiple site data communication link with a plurality of other computers on conferenced telephone line. The system of the present invention for linking a plurality of computers in a multiple site configuration."**

The system of Perlman is similar to the system of Hawkins, except that it utilizes a conference call telephone line instead of an Internet chat room site to link multiple personal computers. There is not mention of using wireless terminals via a wireless communication network to establish a game situation between the two terminals for executing the game on the terminals.

C. The Examiner has failed to establish that the reference Shaw. U.S. Publication No. 20020083148 expressly or inherently describes all of the elements of claims 1-44 of this application. In particular the reference Shaw fails to disclose the elements of independent claims 1, and 36-44 of this application.

The cited reference Shaw fails to support the rejection based on anticipation because it does not involve communications transmitted by a wireless terminal in a wireless network, the games in Shaw are not initiated by direct communication between first and second wireless terminals. Also, there is no suggestion that the games are played using software executed by a wireless terminal.

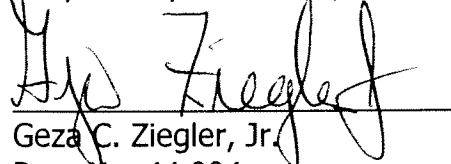
The reference Shaw describes a system for caching of personalized content on a centralized server. As shown in figure 1, a centralized office 24 may be accessed by users, through wireless communication or other means through aggregation 26. There is no disclosure of direct communication between wireless terminal users to initiate a gaming session and there is no disclosure of downloading game application software to the wireless terminals that are in direct gaming communication. The initiation of a media or gaming session in the system of Shaw is described as follows in paragraph 0030 with reference to figure 7, as follows:

**"The users each first downloads the online session software application from either edge cache engine 146 or game servers 140 and 134, as shown in block 192."**

For all of the above reasons, it is respectfully submitted that the Examiner has erred in ignoring the clear limitations of the claims that involve the use of a wire less terminal in a wireless network and erred in ignoring the clearly stated process limitation relating to the initiation of a gaming session through direct contact between wireless terminals and ignoring the clearly stated limitation relating to execution of the application on the terminals.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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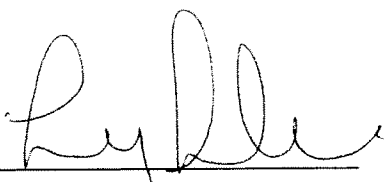
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